

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

PAUL ANTHONY DAVIS,

Petitioner,

Case Number: 10-CV-11262

v.

HON. AVERN COHN

NICK LUDWICK,

Respondent.

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**ORDER DISMISSING PETITION FOR
WRIT OF HABEAS CORPUS WITHOUT PREJUDICE**

I.

This is a habeas case under 28 U.S.C. § 2254. Paul Anthony Davis (“Petitioner”), presently incarcerated at the St. Louis Correctional Facility in St. Louis, Michigan, challenges his convictions for first-degree murder and felony firearm. As will be explained, the petition is duplicative of another petition pending in this district. Accordingly, the petition will be dismissed.

II.

On March 29, 2010, Petitioner filed a petition in this Court, challenging his 2004 convictions for first-degree murder and felony firearm and raising ten claims for relief. That petition was assigned to another judge in this district. See Davis v. Ludwick, No. 10-11240 (E.D. Mich.).

On March 30, 2010, Petitioner filed the pending. Petitioner challenges the same convictions challenged in the earlier-filed petition and presents the same claims presented in that petition.

III.

"[A] suit is duplicative if the claims, parties, and available relief do not significantly differ between the two actions." Serlin v. Arthur Andersen & Co., 3 F.3d 221, 223 (7th Cir.1993) (internal quotation marks and citations omitted). A district court may dismiss a habeas petition when it is duplicative of a pending habeas petition. See Davis v. U.S. Parole Commission, No. 88-5905, 1989 WL 25837 (6th Cir. 1989); Marks v. Wolfenbarger, No. 2:06-cv-14325, 2006 WL 2850340, *1 (E.D. Mich. Oct. 3, 2006); Fuson v. Harry, No. 06-13211-BC, 2006 WL 2421639, *1 (E.D. Mich. Aug. 22, 2005).

As explained above, the present petition is duplicative of the earlier-filed petition. To the extent that Petitioner wishes to raise additional claims not already before the court in the earlier-filed petition, Petitioner may do so by seeking leave to amend that petition in accordance with the requirements of Federal Rule of Civil Procedure 15.

IV.

For the reasons stated above, the petition is DISMISSED WITHOUT PREJUDICE.

SO ORDERED.

Dated: May 14, 2010

s/Avern Cohn
AVERN COHN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was mailed to Paul Davis, 514719, St. Louis Correctional Facility, 8585 N. Croswell Road, St. Louis, MI 48880 the attorneys of record on this date, May 14, 2010, by electronic and/or ordinary mail.

s/Julie Owens
Case Manager, (313) 234-5160